

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

Docket No. 192,223

ORDER

Respondent appeals from a February 9, 1995, Preliminary Order for medical benefits entered by Administrative Law Judge Nelsonna Potts Barnes.

ISSUES

On appeal the respondent argues that the Administrative Law Judge lacked jurisdiction to enter the Order for preliminary benefits because the evidence does not establish that claimant suffered an accidental injury arising out of and in the course of his employment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the briefs of the parties, the Appeals Board finds that the evidence does establish that claimant's current need for medical treatment resulted from an injury arising out of and in the course of his employment with the respondent.

Claimant has alleged injury to his arms, shoulders, upper back and neck in his employment as a sheet metal worker for the respondent. Respondent pointed out that claimant had only minor complaints when he saw Dr. Morris on May 2, 1994, after claimant left his employment for respondent. After the May 2, 1994, appointment with Dr. Morris, claimant worked for two different employers doing lubrication on heavy equipment. Respondent argues claimant's injuries must have been caused by his subsequent employment.

At the time of the February 7, 1995, preliminary hearing the claimant requested medical treatment only, primarily for his continuing problems to his right shoulder. Claimant had not worked for respondent since March 25, 1994. The work for respondent, nevertheless, appears to be the most likely cause of claimant's current need for medical treatment. For approximately ten (10) years claimant did sheet metal aircraft assembly work which involved drilling, riveting, and bucking for riveting. He developed problems with his hands, arms and shoulders over a period of time. The problem became substantially worse over the last three months of his employment and reached the point where he could not sleep at night. He went to Boeing Central Medical on a number of occasions and finally, on March 24, 1994, quit his employment at Boeing. He felt that he could no longer continue to do the work demanded of him because of his physical problems.

In contrast, claimant testified that the work for subsequent employers did not increase the problems he was having. Dr. Munhall states in his report that claimant's condition has evolved during the course of his employment as a sheet metal worker for respondent over the course of nine (9) years. Dr. Munhall's conclusion appears most likely given claimant's work history.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Order entered by Administrative Law Judge Nelsonna Potts Barnes, dated February 9, 1995, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of April, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

- c: Stephen J. Jones, Wichita, KS
 Eric K. Kuhn, Wichita, KS
 J. Phillip Davidson, Wichita, KS
 Nelsonna Potts Barnes, Administrative Law Judge
 George Gomez, Director